

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

-----  
for November 26, 2003 PLANNING COMMISSION MEETING

**P.A.S.:** Special Permit #2042

**PROPOSAL:** To allow the sale of alcoholic beverages for consumption off the premises.

**CONCLUSION:** The licensed premises complies with all the applicable criteria for a special permit for the sale of alcohol, including being located in excess of 100' away from a residence, a residential district, and a day care facility. This request complies with the requirements of the Zoning Ordinance and Comprehensive Plan.

<b><u>RECOMMENDATION:</u></b>	Conditional Approval
-------------------------------	----------------------

### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 1, Meints 1<sup>st</sup> Addition, Lancaster County, Nebraska

**LOCATION:** 2302 Cornhusker Highway

**EXISTING ZONING:** H-3 Highway Commercial

**EXISTING LAND USE:** Undeveloped

### **SURROUNDING LAND USE AND ZONING:**

North:	Vacant	H-3
South:	Commercial	H-3
East:	Salt Creek	H-3
West:	Commercial	H-3

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan designates commercial land uses in this area

### **ANALYSIS:**

**Overview:** The plan for developing this site includes a convenience store, a covered fuel island, and a drive-thru car wash. This request is to allow the sale of alcohol for consumption off the premises from the convenience store.

**1. SPECIAL PERMIT REQUIREMENTS PER LMC 27.63.685:** Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1 and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which can be waived by the City Council:

**(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code (LMC).**

Paved parking is provided adjacent to the premises that complies with the requirements of LMC Section 27.67.020. Continued compliance with the requirements of LMC 27.67.020 will be reviewed at the time of building permits

**(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under Section 27.63.680 of this code.**

This application is for a special permit to allow for the sale of alcohol for consumption off the premises. Authorization for on-site consumption of alcohol is not being requested.

**(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.**

There are no day care facilities, residences or residential districts within 100' of the premises. The nearest residential district is located northwest of this site, in excess of 1,300' away.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

Parking lot lighting is required to comply with the Design Standards for parking lot lighting (Design Standards Chapter 3.45, Section 3.8), and is subject to review at the time of building permits.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

A drive-through window is not shown as part of the convenience store.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

An amplified outside noise source is not proposed as part of this request.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

The front door does not face a residential district, the nearest of which is in excess of 1,300' away.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

Access to this site is from North 23<sup>rd</sup> Street which is not a residential street.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

**(1) Revocation or cancellation of the liquor license for the specially permitted premises; or**

**(2) Repeated violations related to the operation of the permittee's business.**

Planning Commission review and City Council approval is required for this use.

## **2. DEPARTMENT RESPONSES:**

**POLICE:** The Police Department has no objection to this request.

**PUBLIC WORKS:** Public Works has no objection to this request.

### **CONDITIONS:**

Site Specific:

1. This approval permits the sale of alcohol for consumption off the premises as shown on the site plan.

General:

2. Before receiving building permits:
  - 2.1 The permittee shall have submitted a revised final plan with 5 copies.
  - 2.2 The construction plans shall comply with the approved plans.

Standard Conditions:

3. The following conditions are applicable to all requests:
  - 3.1 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 3.2 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 3.3 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

-----  
Brian Will  
Planner  
October 12, 2003

**APPLICANT**                      Kwik Shop, Inc.  
734 East 4<sup>th</sup> Avenue  
Hutchinson, KS 67501              (620) 669-8504

**OWNER:**                      Dillon Real Estate Company, Inc.  
2800 East 4<sup>th</sup> Avenue  
Hutchinson, KS 67501              (620) 663-6636

**CONTACT:**                      Bill Austin  
301 South 13<sup>th</sup> Street              Suite 400  
Lincoln, NE 68508              (402) 476-1000



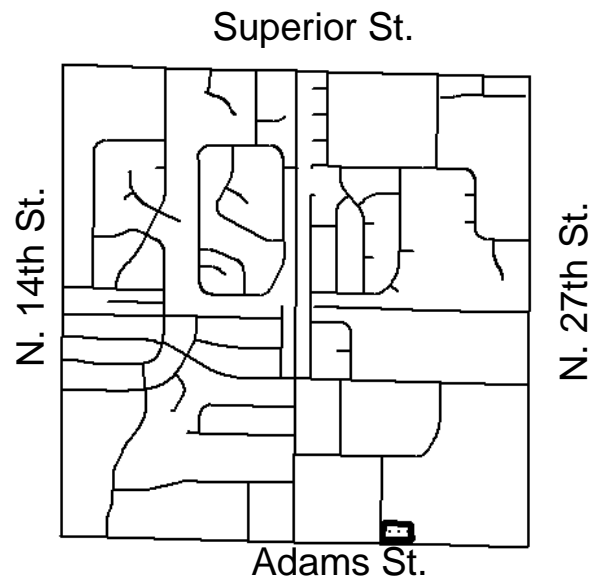
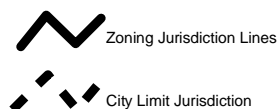
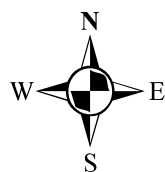
2002 aerial

## Special Permit #2042 2302 Cornhusker Hwy

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 12 T10N R6E



H-3

NORTH 23RD STREET

I-1

H-3

N 88°55'09" W 8.03'  
N 01°09'18" E 110.23'  
76°34'05" W 23.37'

CORNHUSKER HWY

SITE PLAN

SCALE: 1" = 50'

KWIK SHOP  
3635 SF  
FFE: 1149.60

CAR WASH  
1016 SF  
FFE: 1150.0

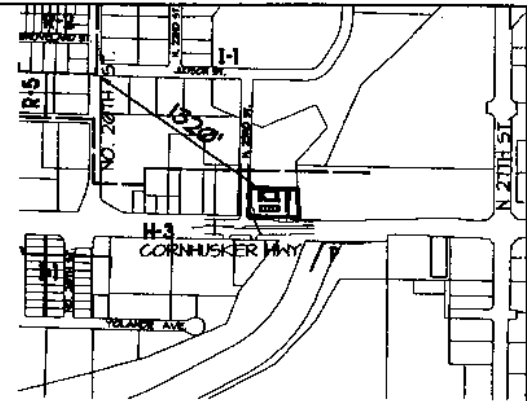
9'x17.5' TYP  
PARKING STALL

FUEL ISLAND CANOPY

H-3

S 04°27'28" E 103.10'  
30' RY

N 88°55'09" W 294.67'  
30' FY



VICINITY MAP

NO SCALE

## LEGAL DESCRIPTION

LOT 1, MEINTS 1ST ADDITION, LINCOLN,  
LANCASTER COUNTY, NEBRASKA,  
LOCATED IN THE SE 1/4 SEC. 12, T10N,  
R6E

## ZONING

EXISTING ZONING: H-3

## PARKING

21 STALLS REQUIRED  
21 STALLS PROVIDED

## SETBACKS

FRONT YARD: 30'  
REAR YARD: 30'  
SIDE YARD: 15'

**KWIK SHOP #619**  
23RD & CORNHUSKER  
LINCOLN, NEBRASKA

DESIGN ASSOCIATES OF LINCOLN, INC.  
1008 N. STREET  
LINCOLN, NEBRASKA 68508  
PHONE: 402/474-5000  
FAX: 402/474-4045  
www.designassociates.com



1 OF 1

OCT 03

CHARLES THONE  
DONALD H. ERICKSON  
DANIEL D. KOUKOL  
WM. E. MORROW, JR.  
SAM JENSEN  
DANIEL B. KINNAMON  
THOMAS J. GUILFOYLE  
VIRGIL K. JOHNSON  
CHARLES V. SEDERSTROM  
CHARLES D. HUMBLE  
MICHAEL C. WASHBURN  
ALAN M. WOOD  
WILLIAM F. AUSTIN  
JOHN C. BROWN RIGG  
THOMAS J. CULHANE  
RICHARD J. GILLOON  
SAMUEL E. CLARK  
GARY L. HOFFMAN  
MARK M. SCHORR  
JERALD L. RAUTERKUS  
WILLIAM T. FOLEY

LAW OFFICES  
**ERICKSON & SEDERSTROM, P.C.**

A LIMITED LIABILITY ORGANIZATION

SUITE 400  
301 SOUTH 13<sup>TH</sup> STREET  
LINCOLN, NEBRASKA 68508-2571  
TELEPHONE (402) 476-1000  
FACSIMILE (402) 476-6167

WRITER'S INTERNET ADDRESS

waustin@eslaw.com

October 29, 2003

PATRICK R. GUINAN  
JOHN B. MORROW  
TRAVIS A. GINEST  
DAVID J. TARVIN, JR.  
MICHELLE B. MILLER  
TIERNAN T. SIEMS  
PAUL D. HEIMANN  
KRISTINE J. GATES  
ANGELA PROBASCO  
TRENT J. MARTINET

OF COUNSEL

DAVID C. MUSSMAN  
ROLAND J. SANTONI  
DAVID J. NIELSEN  
DONALD B. STENBERG

OMAHA OFFICE  
10330 REGENCY PARKWAY  
DRIVE, SUITE 100  
OMAHA, NEBRASKA 68114  
(402) 397-2200

Marvin Krout, Director  
City/County Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

Re: Special Use Permit Application of Kwik Shop, Inc. to Permit Sale of  
Alcoholic Beverages for Consumption Off the Premises  
2302 Cornhusker Highway, Lincoln, Nebraska

Dear Mr. Krout:

I am writing of behalf of my client, Kwik Shop, Inc. Kwik Shop, Inc. hereby submits its application for a special use permit pursuant to § 27.63.685 of the Lincoln Municipal Code for authority to sell alcoholic beverages off the premises at its proposed licensed premises of 2302 Cornhusker Highway in Lincoln. The property is zoned H-3 and therefore requires special use permit authorization.

The licensed premises will involve a traditional Kwik Shop layout and operation, with the general business being to provide convenience items, retail gasoline sales, and car wash facilities on a 24-hour basis. The pending liquor license application is for a Class D liquor license for consumption of alcoholic beverages off the premises.

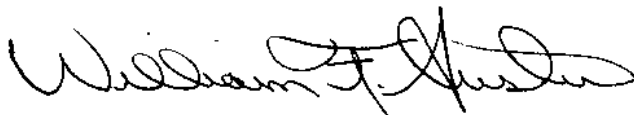
The site of the proposed special use is more than 100 feet from any day care facility, residential district, or residential use and no sound or noise source or access door will be within 150 feet of any residential district.

OCT 29 2003

Marvin Krout  
Page 2  
October 29, 2003

The applicant is seeking no waivers and respectfully requests your prompt review and approval of this application. If you have any questions or if any additional information is needed, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "William F. Austin". The signature is fluid and cursive, with a large initial "W" and a stylized "A".

William F. Austin

WFA:rjj

Enclosures

c: Beth Howard, Kwik Shop, Inc.

OCT 29 2003